

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

JULIA DESOGUGUA, Individually, and)
on behalf of others similarly situated,)
)
)
Plaintiff,)
)
) C.A. No. 1:11-cv-00188-LO-JFA
v.)
)
WELLS FARGO BANK, N.A., d/b/a)
WELLS FARGO HOME MORTGAGE,)
)
Defendants.)
)

)

**MEMORANDUM IN SUPPORT OF
AMENDED MOTION FOR PROTECTIVE ORDER**

Defendant, Wells Fargo Bank, N.A. (“Wells Fargo”), by counsel, and in support of its Amended Motion for Protective Order filed simultaneously herewith and pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, states as follows:

Introduction/ Factual Background

Counsel are in agreement as to the terms of a protective order.

Argument

Rule 27(c)(1)(G) of the Federal Rules of Civil Procedure states that “the court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following ... requiring that a trade secret, or other confidential research, development or commercial information not be revealed or revealed only in a specified way.” F.R.C.P. Rule 26(c)(1)(G). The party seeking a protective order has the burden of establishing ‘good cause’ by demonstrating that ‘specific

prejudice' or harm will result if no protective order is granted.'" Davis v. Prince, 753 F.Supp.2d 561, 565 (E.D.Va. 2010)(quoting Lathon v. Wal-Mart Stores East, LP, No. 3:90cv57, 2009 WL 181006, at *5 (E.D.Va. June 24, 2009)).

The parties seek a protective order to prevent the disclosure of certain sensitive and confidential information of the parties involved in this litigation. Neither party is attempting to withhold the production of any material under the proposed protective order. It will merely be marking those documents containing either confidential proprietary business information or sensitive personal identifying information as "Confidential." Under the terms of the proposed protective order attached to the Amended Motion as Exhibit A, documents marked as Confidential may only be shown to those persons meeting the definition of "Qualified Persons." Qualified Persons are defined as:

- (i) the parties and their attorneys and support staff employees who perform work tasks related to this case;
- (ii) qualified persons taking testimony involving such material and necessary stenographic and clerical personnel;
- (iii) testifying or consulting experts retained by a party to assist in the presentation of the case, and persons regularly employed in the offices of such experts;
- (iv) present or former employees of the producing party, including witnesses produced pursuant to Fed. R. Civ. P. 30(b)(6) (provided that no former employee shall be shown documents prepared after the date of his or her departure);
- (v) witnesses who are deposed in this action or who are called to testify as witnesses at any hearing or trial in this action, but only in preparation for the

deposition, hearing, or trial and only as to such material in which the witness is identified as an originator, author, addressee, or recipient of the original or a copy; and

- (vi) the Court, Court personnel, and members of any jury impaneled to hear this case.

Versions of the proposed protective order have appeared in numerous reported decisions.

See, e.g., Hall v. United Air Lines, Inc., 296 F. Supp. 2d 652 679 (E.D. N.C. 2003) (noting that protective order previously entered by the magistrate judge allowed documents to be designated “Confidential” or “Confidential and Outside Lawyers Only”); Drexel Heritage Furnishings, Inc. v. Furniture USA, Inc., 200 F.R.D. 255, 262 (M.D. N.C. 2001) (adopting defendants’ proposal that certain confidential documents be disclosed only to outside attorneys’ eyes); Shephard v. River Valley Fitness One, L.P., 428 F.3d 1, 5 (1st Cir. 2005); Imax Corp. v. Cinema Tech., Inc., 152 F.3d 1161, 1168 n. 9 (9th Cir. 1998); IMX, Inc. v. Lending Tree, LLC, 405 F. Supp. 2d 479, 491 (D. Del. 2005); BAE Systems Aircraft Controls, Inc. v. Eclipse Aviation Corp., 224 F.R.D. 581, 589 (D. Del. 2004); Green v. Baca, 219 F.R.D. 485, 488 (C.D. Cal. 2003); Medtronic Sofamor Danek, Inc. v. Michelson, 229 F.R.D. 550, 562 (W.D. Tenn. 2003); Kooima v. Zacklift Int’l, Inc., 209 F.R.D. 444, 445-46 (D. S.D. 2002).

WHEREFORE, Wells Fargo respectfully requests that the Court enter the Stipulated Protective Order attached to its Amended Motion for Protective Order, and that the Court grant such other and further relief as the Court deems appropriate.

Respectfully submitted,

Dated: November 16, 2011.

WELLS FARGO BANK, N.A.

/s/ Terry C. Frank

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing, on this **16th** of November 2011, has been electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing (NEF) to the following:

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